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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/092,030

03/06/2002

Peyton W. Hall

TRIA:005

7597

36275

7590

07/08/2010

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EXAMINER

PATEL, NIHIR B

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

07/08/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/092,030	<b>Applicant(s)</b> HALL ET AL.	
	<b>Examiner</b> NIHIR PATEL	<b>Art Unit</b> 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Argument filed on April 2<sup>nd</sup>, 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-17,19-23 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-7, 16, 17, 19-23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on April 2<sup>nd</sup>, 2010 have been fully considered but they are not persuasive. The applicant argues that Ohodaira does not disclose a fluorinated rubber composite including at least one reinforcement layer. The examiner disagrees with the applicant's argument. Column 4 lines 15-20 of the Ohodaira reference discloses using ethylene tetrafluoroethylene copolymer (fluorinated rubber composite) being used as outer layers implying more than one layers which can be defined as reinforcement layer. The applicant further argues that there is no mention of thermoplastic polyurethane in Lescaut. The examiner disagrees with the applicant's argument. Column 2 lines 67-68 and column 3 lines 1-3 of the Lescaut's reference discloses thermoplastic polyurethane.

In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field's invention by providing an outer layer made of fluorinated rubber composite as taught by Ohodaira to insure that there are no leaks

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formed when used in rough environment and an inner layer made of thermoplastic polyurethane as taught by Lescaut so that the fluid contained in the bladder is not contaminated.

***Response to Amendment***

2. The examiner acknowledges the amendment filed on April 2<sup>nd</sup>, 2010. The amendment comprises amending claims 1; 16; 23; and 27 and cancelling claims 3, 18, 24 and 28.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims **1, 2, 4, 5, 7, 16, 17, 19, 20, 22, 23 and 25-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Field (US 4,636,412) in view of Ohodaira et al. (US 4,482,585) and further in view of Lescaut (US 4,753,368).

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6. As to **claims 1, 23, 26 and 27**, Field substantially discloses a bladder configured to hold a fluid (**see figure 1; col. 3 lines 10-15**), wherein the bladder comprises an outer layer **12 (see figure 1; col. 3 lines 50-55)** and an inner layer **11 (see figure 1; col. 3 lines 50-55)**; a spout **10** connected to the bladder and in communication with the inside of the bladder (**see figure 1 col. 3 lines 60-65**), wherein the spout comprises an output port and a fill for filling the bladder with fluid (**see figure 1; col. 3 lines 10-15**); a cap adapted to engage and close the fill port (**see col. 3 lines 65-67**); a tube having a first end connected to the output port of the spout and having a second end connected top a fluid delivery fitting (**see col. 3 lines 65-67**) but does not disclose an outer layer made of fluorinated rubber composite and an inner layer made of thermoplastic polyurethane, and wherein the fluorinated rubber composite includes at least one reinforcement layer for the fluorinated rubber. Ohodaira teaches an apparatus that does provide an outer layer **3** made of fluorinated rubber (**see col. 4 lines 15-25**) but does not disclose an inner layer made of thermoplastic polyurethane. Lescaut discloses an apparatus that does disclose an inner layer **15** made of thermoplastic polyurethane (**see fig. 1; col. 2 lines 67-68 and col. 3 lines 1-3**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field's invention by providing an outer layer made of fluorinated rubber composite as taught by Ohodaira to insure that there are no leaks formed when used in rough environment and an inner layer made of thermoplastic polyurethane as taught by Lescaut so that the fluid contained in the bladder is not contaminated.

7. As to **claim 2**, Field substantially discloses an apparatus wherein the bladder is flexible (**see col. 3 lines 40-45**).

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8. **As to claim 4**, Field substantially discloses an apparatus wherein the cap is adapted to screw into the fill port **(see col. 3 lines 65-67)**.
9. **As to claim 5**, Field substantially discloses an apparatus wherein the spout has a width and a height, wherein the width is greater than the height **(see figure 2)**.
10. **As to claims 7 and 25**, Field substantially discloses an apparatus wherein the fluorinated rubber composite comprises a polyamide reinforcing layer and a thermoplastic polymer layer **(see col. 3 lines 50-60)**.
11. **As to claims 16, 17, 19, 20 and 22**, Field substantially discloses a method steps of at least partially filling the hydration system a fill port with a fluid and closing the system by engaging the cap to the fill port **(see col. 3 lines 10-20)**, wherein the hydration system comprises a bladder configured to hold a fluid **(see col. 3 lines 10-15)**, wherein the bladder comprises an outer layer **12 (see col. 3 lines 50-55)** and an inner layer **11 (see col. 3 lines 49-55)**; a spout **10** connected to the bladder and in communication with the insider of the bladder **(see col. 3 lines 60-65)**, wherein the spout comprises an output port and an fill port for filling the bladder with fluid **(see col. 3 lines 10-25)**; a cap adapted to engage and close the fill port **(see col. 3 lines 65-67)**; a tube having a first end connected to the output port of the spout and having a second end connected to a fluid delivery fitting **(see col. 3 lines 65-67)** but does not disclose an outer layer made of fluorinated rubber composite and an inner layer made of thermoplastic polyurethane, and wherein the fluorinated rubber composite includes at least one reinforcement layer for the fluorinated rubber. Ohodaira teaches an apparatus that does provide an outer layer **3** made of fluorinated rubber composite **(see col. 4 lines 15-25)** and Lescaut teaches an apparatus that does provide an inner layer made of thermoplastic polyurethane. Therefore, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify Field's invention by providing an outer layer made of fluorinated rubber composite as taught by Ohodaira to insure that there are no leaks formed when used in rough environment and an inner layer made of thermoplastic polyurethane as taught by Lescaut so that the fluid contained in the bladder is not contaminated.

The method steps would have been obvious because they would have resulted from the use of the device of Field/Ohodaira/Lescaut.

13. Claim **6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Field (US 4,636,412) in view of Ohodaira et al. (US 4,482,585) further in view of Lescaut (US 4,753,368) as applied to claim **1** above, and further in view of Kong (US 6,253,936).

14. **As to claim 6**, Field/Ohodaira/Lescaut substantially discloses the claimed invention; see rejection of claim 1 above, but does not disclose a tube that is made of flexible plastic. Kong discloses an apparatus that does provide a tube **96** that is made of flexible plastic (**see col. 8 lines 30-35**). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field/Ohodaira/Lescaut's inventions by providing a tube that is made of flexible plastic as taught by Kong so that the user has more mobility while drinking the fluid.

15. Claim **21** is rejected under 35 U.S.C. 103(a) as being unpatentable over Field (US 4,636,412) in view of Ohodaira et al. (US 4,482,585) further in view of Lescaut (US 4,753,368) as applied to claim **16** above, and further in view of Kong (US 6,253,936).

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16. **As to claim 21**, Field/Ohodaira/Lescaut substantially discloses the claimed invention; see rejection of claim 1 above, but does not disclose a tube that is made of flexible plastic. Kong discloses an apparatus that does provide a tube **96** that is made of flexible plastic (**see col. 8 lines 30-35**). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field/Ohodaira/Lescaut's inventions by providing a tube that is made of flexible plastic as taught by Kong so that the user has more mobility while drinking the fluid.

The method steps would have been obvious because they would have resulted from the use of the device of Field/Ohodaira/Lescaut.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIHIR PATEL whose telephone number is (571)272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nihir Patel/  
Examiner, Art Unit 3772

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772

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